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BEFORE THE ARIZONA CORPORATION COMMISSION

2011 SEP 20 A 9:53

COMMISSIONERS

GARY PIERCE, Chairman
BOB STUMP
SANDRA D. KENNEDY
PAUL NEWMAN
BRENDA BURNS

AZ CORP COMMISSION
DOCKET CONTROL

In the matter of:

MARK W. BOSWORTH and LISA A.
BOSWORTH, husband and wife;

STEPHEN G. VAN CAMPEN and DIANE V.
VAN CAMPEN, husband and wife;

MICHAEL J. SARGENT and PEGGY L.
SARGENT, husband and wife;

ROBERT BORNHOLDT and JANE DOE
BORNHOLDT, husband and wife;

MARK BOSWORTH & ASSOCIATES, L.L.C.,
an Arizona limited liability company;

3 GRINGOS MEXICAN INVESTMENTS,
L.L.C., an Arizona limited liability company;

Respondents.

DOCKET NO. S-20600A-08-0340

**RESPONSE TO THE BOSWORTH
RESPONDENTS' MOTION TO
CONTINUE**

(Assigned to the Honorable Marc E. Stern)

Arizona Corporation Commission

DOCKETED

SEP 20 2011

DOCKETED BY

On September 13, 2011, Mark and Lisa Bosworth¹ ("Bosworth Respondents") through their counsel, filed a Motion to Continue the administrative hearing currently scheduled to begin on October 17, 2011. Although the Securities Division does not oppose a short continuance, it files this Response to clarify the factual inaccuracies in the Bosworth Respondents' Motion to Continue.

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¹ No Notice of Appearance has been filed on behalf of Mark Bosworth & Associates, LLC or 3 Gringos Mexican Investments, LLC. Mark Bosworth has previously stated that he represents both of these entities.

1 **Proposed Consent**

2 The Bosworth Respondents, inaccurately state that the Securities Division refused to honor
3 its Proposed Consent with the Bosworth Respondents. This is factually inaccurate. As explained
4 in great detail to Mr. Bosworth, the Proposed Consent contained a factual mis-statement. *See*
5 Hearing Transcript Volume VI, dated August 26, 2010, pages 858 – 859, lines 13 – 9. The
6 Securities Division attempted to correct the mis-statement with no substantive change that would
7 affect the Bosworth Respondents. Instead of signing a factually correct document, Mr. Bosworth
8 chose to go forward with the administrative hearing that was already in progress.

9 In light of Mr. Bosworth's decision, on August 23, 2010, the Securities Division filed a
10 Motion to Set Hearing requesting a completely separate hearing be held with a different
11 Administrative Law Judge. In fact, the Securities Division suggested that no testimony from the
12 on-going administrative hearing be able to be used in any subsequent hearing in an effort to protect
13 Mr. Bosworth's due process rights. *See* Hearing Transcript Volume VI, dated August 26, 2010,
14 page 854, lines 5 – 9; pages 856 – 857, lines 24 – 2. On September 8, 2010, the Sargent
15 Respondents concurred with the Securities Division's request. On September 13, 2010,
16 Respondents Mark Bosworth, Mark Bosworth & Associates, LLC and 3 Gringos Mexican
17 Investments, LLC filed a response objecting to the Securities Division's Motion to Set Hearing.
18 Mr. Bosworth "vigorously" objected to a separate hearing and insisted that he be allowed to
19 proceed in the on-going administrative hearing. ALJ Stern granted his request. *See* Procedural
20 Order 15 dated November 9, 2010, page 7, lines 19 – 23.

21 **Prior Continuances**

22 The administrative hearing in this matter was never continued to allow new Securities
23 Division counsel time to prepare for the scheduled hearing. The Securities Division filed a
24 Substitution of Counsel on November 4, 2010. At the November 30, 2010, Procedural
25 Conference, Mr. Bosworth was given 60 days to review the prior hearing transcripts. *See*
26 Procedural Conference Transcript dated November 30, 2010, page 12, lines 18 – 24. On February

1 9, 2010, a Procedural Conference was held that not only scheduled a hearing to begin on June 1,
2 2011, but also set forth a schedule by which various motions and issues needed to be resolved. *See*
3 Procedural Conference Transcript dated February 9, 2011.

4 **Legal Representation**

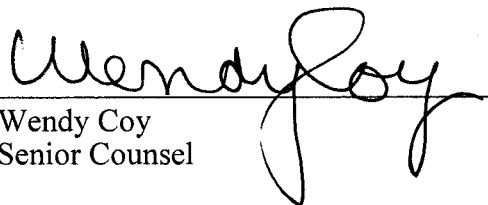
5 The Bosworth Respondents had ample time to retain counsel to represent their interests
6 after their refusal to sign the corrected Proposed Consent. In fact, Mr. Bosworth represented to
7 ALJ Stern that he would be retaining counsel. *See* Hearing Transcript Volume VI, dated 8/26/2010
8 page 855, lines 2 – 4. Had legal counsel been retained when Mr. Bosworth first represented that he
9 was seeking counsel, that counsel would have had time to prepare without postponing the
10 scheduled hearing. But for Mr. Bosworth's delay, there would be no reason to extend this lengthy
11 proceeding any further.

12 **Conclusion**

13 The Securities Division does not oppose a brief continuance however; the basis for the
14 continuance must be factually accurate.

15 RESPECTFULLY SUBMITTED this 20th day of September, 2011.

16
17 ARIZONA CORPORATION COMMISSION
18 SECURITIES DIVISION

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21 Wendy Coy
22 Senior Counsel
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1 **ORIGINAL** and **8 COPIES** of the foregoing filed
2 this 20th day of September, 2011 with:

3 Docket Control
4 Arizona Corporation Commission
1200 W. Washington St.
Phoenix, AZ 85007

5 **COPY** of the foregoing hand delivered
6 this 20th day of September, 2011 to:

7 The Honorable Marc E. Stern
8 Hearing Division
Arizona Corporation Commission
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Phoenix, AZ 85007

9 **COPY** of the foregoing mailed/e-mailed
10 this 20th day of September, 2011 to:

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